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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,914	12/23/2004	Kazumichi Yamamoto	074129-0516	7684
22428 7590 01/29/2011 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
AUDET, MAURY A				
ART UNIT		PAPER NUMBER		
1654				
MAIL DATE		DELIVERY MODE		
01/20/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10518914	12/23/04	YAMAMOTO ET AL.	074129-0516

**EXAMINER**

MAURY AUDET

ART UNIT	PAPER
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1654

20110118

DATE MAILED:

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**Commissioner for Patents**

Applicant's filing of the Notice of Appeal on 12/15/10, following the 10/26/10 Advisory Action is acknowledged.

Additionally, Applicants new arguments (and amendments) are acknowledged as well. However, any further substantive arguments at this stage must be filed by Appeal Brief. Thus, these arguments have not been considered on the merits.

However, in a cursory review, the Examiner does note that Applicant does not believe the new art of record (WO9936099) under 102 & 3 supporting JP references under 103 rejection), uncovered after the updated search of Applicant's last set of amendments After Final, should apply - to either the methods of making or the composition claimed by product by process - because Applicant filed the US equivalent (US 6,740,634) in an IDS, even if they did not file WO '099 per se..

Though this point has been fully considered it is not found persuasive. Applicant filed over 100 references, and in the case of US references, copies/relevant sections are not provided. US IDS references, as filed en masse, are only 'considered' in conjunction with the prior art search. Namely, if an IDS US reference is revealed during the search of the claimed invention as prior art, then it is applied. Since that US equivalent reference cited in the IDS was NOT revealed in the prior art search of the PREVIOUSLY claimed invention, then naturally is was not applied as prior art over the PREVIOUSLY claimed invention.

Applicants amendment of the claims After Final, in response to an outstanding rejection, necessitated a new search which produced WO '099 (not cited/nor copy provided in any IDS). Thus, per the requirement of the Advisory Action Box 7, how the amended claims would be rejected was provided in the Advisory Action. Applicant may address this in the Appeal Brief or Continuation Application (e.g. RCE), if either be filed.

The timeline for response remains that outstanding for the filing of the Appeal Brief or Continuation Application (RCE), including any extensions of time.

**Conclusion:** No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURY AUDET whose telephone number is (571)272-0960. The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). MA, 1/17/2011

